

CRE.9317

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TOMMIE BLACKBURN,

Plaintiff,

v.

**C.R. ENGLAND, INC., d/b/a C.R.
ENGLAND TRUCKING, INC.**

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. _____

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, C.R. ENGLAND, INC. Defendant in the above-referenced matter, and file this, their Notice of Removal under 28 U.S.C. § 1332(a).

**I.
INTRODUCTION**

1. Plaintiff Tommie Blackburn is a citizen of the State of Texas, and upon information and belief, is domiciled in Denton County, Texas.

2. Plaintiff asserts in his state Court Petition that C.R. England, Inc. is a foreign corporation is correct. Plaintiff is correct. C.R. England, Inc. is a foreign corporation organized and established under the laws of the State of Utah with its corporate office and principal place of business located at 4701 W. 2001 S., Salt Lake City, Utah 84120. (See Affidavit of Kelly Lowry, attached hereto as Exhibit "A").

3. Defendant C.R. England, Inc. d/b/a C.R. England Trucking, Inc. was served with suit on or about January 18, 2018. Defendant, therefore, has filed this Notice of Removal within the thirty-day time period required by federal law.

II. BASIS FOR REMOVAL

4. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiff's suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is one which is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) because Plaintiff is a citizen and domiciled in the State of Texas and Defendant C.R. England, Inc. is a Utah corporation, with its principle place of business in the state of Utah.

5. For diversity purposes, a person is considered a citizen of the state where that person is domiciled. Additionally, for diversity purposes, a corporation is a citizen of both the state in which it was incorporated and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1). For C.R. England, Inc. the State of Utah is its state of citizenship. Because the Plaintiff does not share citizenship with the Defendant, removal is proper on diversity grounds.

6. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of Seventy-Five Thousand and No/100 Dollars (\$75,000.00). Plaintiff's Original Petition, attached to this Notice, alleges Plaintiff is seeking monetary relief between \$200,000 and \$1,000,000. *See* Plaintiff's Original Petition p: 1, paragraph I.

7. The Defendant is now, and was at the time the removed action was commenced, diverse in citizenship from the Plaintiff. 28 U.S.C. § 1332. Additionally, the amount in controversy exceeds \$75,000. Accordingly, because the notice of removal was filed within thirty days after the receipt of a copy of the initial pleading setting forth the claim for relief this removal is proper and timely under 28 U.S.C. §1446(b).

8. All pleadings, process, orders, and all other filings in the State Court action are attached to the Notice of Removal as required by 28 U.S.C. § 1446(a) and are resubmitted herewith.

9. The United States District Court for the Eastern District of Texas, Sherman Division, embraces Denton County, Texas, the place where the State Court Action was filed and is pending. This statement is not meant as a waiver of any argument that venue is improper in the location in which the State Court Action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

10. Defendant filed a copy of the Notice of Removal with the Clerk of the State Court in which the action had been pending.

WHEREFORE, Defendant, as party in diversity with the Plaintiff, respectfully requests that this action be immediately and entirely removed upon filing this Notice of Removal to the United States District Court for the Eastern District of Texas, Sherman Division, and for such other and further relief to which it may show itself to be justly entitled.

Respectfully Submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

ADAM J. STRANGE

State Bar No. 24090763

Email: astrange@feesmith.com

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

Tel: 972-980-3255

Fax: 972-934-9200

ATTORNEYS FOR DEFENDANT

**C.R. ENGLAND, INC. d/b/a C.R. ENGLAND
TRUCKING INC.**

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of February, 2018, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Molly F. Scott
Kyle D. Williams
Molly Scott Law, PLLC
12222 Merit Drive, #1200
Dallas, TX 75251

/s/ Michael P. Sharp

MICHAEL P. SHARP

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TOMMIE BLACKBURN,

Plaintiff,

v.

**C.R. ENGLAND, INC., d/b/a C.R.
ENGLAND TRUCKING, INC.**

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. _____

AFFIDAVIT OF KELLY LOWREY

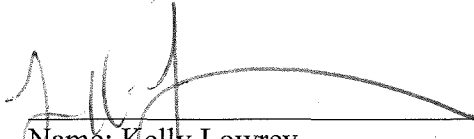
STATE OF UTAH)
)
COUNTY OF SALT LAKE)

BEFORE ME, the undersigned Notary Public, on this day personally appeared Kelly Lowrey, who being by me first duly sworn upon oath, did depose and state as follows:

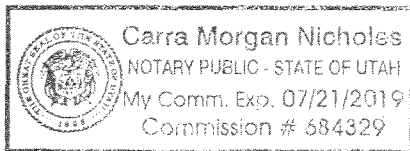
1. My name is Kelly Lowrey. I am over the age of eighteen years and I am fully competent to testify to the matters set forth herein. Each of the statements made herein is true and correct and based upon my personal knowledge.
2. I am the Associate General Counsel for C.R. England, Inc.
3. C.R. England, Inc. is a Utah corporation with its principal place of business at 4701 W. 2100 S., Salt Lake City, Utah 84120.


FURTHER AFFIANT SAYETH NOT.

C.R. ENGLAND, INC.


Name: Kelly Lowrey
Title: Associate General Counsel

SUBSCRIBED AND SWORN TO BEFORE ME on this 16th day of February, 2018, to certify which witness my hand and seal of office.




Notary Public in and for the State of Utah
My Commission Expires: 7/21/19